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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,466	07/23/2003	Virginia L. Harwell	HAR001-053	7432

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DIEDERIKS & WHITELAW, PLC
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Woodbridge, VA 22192

EXAMINER

PAIK, SANG YEOP

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,466

Applicant(s)

HARWELL ET AL.

Examiner

Sang Y Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7 and 21 is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-12 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 8, 9, 11, 12 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welle (US 4,786,799) in view of Ueda (US 4,410,795).

Well shows a cooking appliance such as a cooktop with heating elements arranged thereon with a controller for establishing desired heating power for the heating elements and including a LED digital display. But Welle does not show that the controller has the recited control element for establishing the first and second schemes.

Ueda shows a cooking appliance having a controller with the control elements having a plurality of consecutive numeric digits having odd and even numbers each indicating its associated power level and a digital display. Ueda shows that a first and second setting schemes where an initial power can be established with the even and odd numbers to operate at a predetermined time period and to automatically switch to another selected power level which may be either lower or higher power level than the initial power level after the termination of the predetermined time period set with the initial power. Ueda further shows the stages of the first and second setting schemes by the stage indicator lights.

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In view of Ueda, it would have been obvious to one of ordinary skill in the art to adapt Well with the programmable control elements to input the desired power levels to automatically implement the cooking process which requires varying heating temperature and time.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Welle in view of Ueda as applied to claims 1-4, 8, 9, 11, 12 and 16-20 above, and further in view of Barnes et al (US 6,255,630).

Welle in view of Ueda shows the appliance claimed except the alpha-format display.

Barnes et al show an alpha-format display to show the cooking stages of the device. In view of Barnes et al, it would have been obvious to one of ordinary skill in the art to adapt Welle, as modified by Ueda, with an alpha-format display to indicate the cooking stages in an alpha-format for a more aesthetic and easier ways to indicate the cooking stages.

Allowable Subject Matter

4. Claims 5-7 and 21 are allowed.

5. Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 12/3/04 have been fully considered but they are not persuasive.

The applicant argues that since Ueda shows its heating control scheme in microwave ovens or electrical ovens, it would not have been obvious to combine such teaching with the cooktop devices as shown in the Wells reference. While Ueda does not show using its

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applications in the cooktop appliances, the examiner maintains the position that since they are in the same field of endeavor which is in the field of electrical heating devices further having the power control means to achieve the desired cooking process. Since they are deemed to be in the same field of endeavor, it would have been obvious to one of ordinary skill to look the benefits of the teachings in Ueda and apply and modify the cooking device of Welle's. The applicant argues that since there are no other cooktops incorporating such teachings of Ueda since its issue, there are even less motivations to combine, and further argues it would not have been obvious to incorporate such teachings in a cooktop having a plurality of heating elements. While there may not have been cooktops incorporating such teachings of Ueda, the lack of such cooktops in the industry does not counter or teach away the obviousness to combine.

With respect to claim 11, the applicant argues that the means-plus-function should be interpreted under the 112 sixth paragraph and be read in light of the specification. The applicant points out that such means include a simple control element such as a rotary knob or like. However, it is also noted that the control means also include the controller such as the CPU that enables establishing the claimed first and second settings. Since such means is performed by the CPU controller, it is reasonably for the examiner to hold the micro-computer processor of the Ueda to meet the recited means that also performs the power setting schemes. Also it is noted that Ueda also uses a rotary knob as a part of the overall control unit that control the power setting which would meet the mean-plus function recitation.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Y Paik whose telephone number is 571-272-4783. The examiner can normally be reached on M-F (9:00-4:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sang Y Paik
Primary Examiner
Art Unit 3742



syp